

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEMTRON CORPORATION,

Plaintiff,

-vs-

Case No. 1:04-0387
Hon: AVERN COHN

SAINT-GOBAIN CORPORATION,

Defendant.

**MEMORANDUM AND ORDER GRANTING MOTION IN LIMINE TO
PRECLUDE GEMTRON FROM ASSERTING INFRINGEMENT
UNDER THE DOCTRINE OF EQUIVALENTS**

Saint-Gobain has moved to preclude Gemtron from asserting infringement under the doctrine of equivalents at trial. In its response Gemtron says that if Saint-Gobain proffers an alternative claim construction at trial and/or an appeal, and "if a modified claim construction were to be adopted at trial or on appeal, Gemtron would be severely prejudiced if it were not permitted to amend its infringement theories [etc]." Sufficient unto the day is the evil thereof (Matthew 6:34). The motion is GRANTED. No mention shall be made at trial of infringement by equivalents without prior approval of the Court outside the presence of the jury.

The Court is constrained to observe that it appears that implicit in the interpretation of the claim "when the glass is being inserted into the frame is the fact that" the claim[s] [does] not limit the temperature at which relative resiliency . . . is present" and that the jury

should be so advised. This is a matter which must be resolved prior to opening statements.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: January 17, 2008

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, January 17, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160